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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,645	06/09/2001	Maria R. Cabedo-Deslierres		9326

7590 02/13/2004  
MARIA R. CABEDO-DESLIERRES  
2337 E. Brookdale Place  
Fullerton, CA 92831

EXAMINER
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BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/877,645

Applicant(s)

CABEDO-DESLIERRES ET AL.

Examiner

Shay L Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 2-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-4 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Figure 1 in response dated 12/9/03 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The restriction requirement has been reviewed and is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Conke (USPN 5046212) in view of Olson et al. (USPN 1487075) and further in view of Wu (USPN 5097852)

O'Conke teaches a toothbrush comprising a brush head (19) at one end and a handle (11) at the other end. The handle has a recess chamber (32) for holding and guiding a periodontal tool (39). There is a slider within the recess that has an extension tube (31) attached to the terminal end. There is button (37) that engages a slot (33) in the outer wall of the recess chamber. The button is keyed to the slider through the slots. O'Conke teaches all the essential elements of the claimed invention however fails to teach two periodontal tools housed in the handle. Olson teaches a tooth cleaner comprising a brush on one end and two periodontal cleaning tools on the other end. The tools are housed in two separate recesses in the handle, however they pivot rather than slide out of the recess. It would have been obvious to one ordinary skill in the art at the time the invention was made to have

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two periodontal tools housed in the handle on O'Conke's toothbrush since cleaning elements of various characters facilitate the cleaning of different portions of the teeth to obtain a more effective cleaning as taught by Olson.

O'Conke also fails to teach a cap at the terminal end of the handle. Wu teaches a toothbrush comprising brush head at one end and a periodontal tool at the other. The tool is on a slider so that it can be retracted and extended from the handle. There is a cover (4) to protect the tool. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a cover/cap to inhibit any contamination that could come in contact with the periodontal tools.

O'Conke in view of Olson et al and further in view of Wu teaches all the essential elements of the claimed invention as specified in claim 1.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (USPN 5097852 in view of Olson et al. (USPN 1487075).

Wu teaches a toothbrush comprising a brush head (11) at one end and a handle at the other end. The handle has a recess chamber (21) for holding and guiding a periodontal tool (3). There is a slider within the recess that has an extension tube (31) attached to the terminal end. There is button (35) that engages a slot (23) in the outer wall of the recess chamber. The button is keyed to the slider through the slots. There is also a cover (4) for covering the periodontal tool when not in use. Wu teaches all the essential elements of the claimed invention however fails to teach two periodontal tools housed in the handle. Olson teaches a tooth cleaner comprising a brush on one end and two periodontal cleaning tools on the other end. The tools are housed in two separate recesses in the handle, however they pivot rather than slide out of the recess. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have two periodontal tools housed in

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the handle on Wu's toothbrush since cleaning elements of various characters facilitate the cleaning of different portions of the teeth to obtain a more effective cleaning as taught by Olson.

Wu in view of Olson et al. teaches all the essential elements of the claimed invention as specified in claim 1.


### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb  
2/04/04

  
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